

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
PROF BILL NEILL)	FOIA Control No. 2003-483
)	
On Request for Inspection of Records)	

MEMORANDUM OPINION AND ORDER

Adopted: November 14, 2003

Released: November 18, 2003

By the Commission:

1. This order denies an application for review filed by Prof¹ Bill Neill (Neill), seeking review of a decision of the Wireline Competition (WCB) denying Neill's Freedom of Information Act (FOIA) request.

2. Neill sought information related to comments and reply comments that he filed in CC Docket No. 99-200, in which the Commission is examining measures intended to increase the efficiency with which telecommunications carriers use telephone numbering resources.² Neill's comments and reply comments concerned his proposal to employ a "hexadecimal numbering system."³ Neill stated in his FOIA request:⁴

We shall expect a full accounting of who read [Neill's submissions], their professional qualifications, their notes and analysis, what they did with [them], where [they] are now, what is expected to happen to [their] suggestions in the future, and what the FCC intends to do about [them].

3. In response, WCB explained that comments in rulemaking proceedings are reviewed by appropriate staff and noted that comments and orders in rulemakings, including Neill's filings, are available online via the Commission's electronic comment filing system (ECFS) and through the Commission's duplicating contractor.⁵ Turning to the specifics of Neill's request,

¹ Neill does not indicate an institutional affiliation.

² See Numbering Resource Optimization, 14 FCC Rcd 10322 (1999).

³ See http://ftp.fcc.gov/Bureaus/Miscellaneous/Public_Notices/Exparte/1999/ex991115.html; <http://ftp.fcc.gov/Bureaus/Miscellaneous/Filings/fl990806.html> (both notices of Neill's filings).

⁴ Letter from Prof Wm. J. Neill to Office of the Secretary, Federal Communications Commission (Jul. 11, 2003) (FOIA Control No. 2003-483).

⁵ Letter from Joseph T. Hall, Assistant Bureau Chief, Management, Wireline Competition Bureau to Professor Bill Neill (Aug. 14, 2003).

WCB noted that the FOIA does not require agencies to answer questions in connection with FOIA requests, but only to provide access to existing documents. Nevertheless, WCB's decision did comment briefly on the merits of Neill's proposal in the rulemaking proceeding. WCB also noted that its search did not uncover any notes or analysis "of the person(s) reviewing the comments."

4. Neill sought review of WCB's decision.⁶ His appeal does not address the grounds relied on by WCB in denying his FOIA request or even reference WCB's decision. Instead, Neill submits 22 new questions concerning the FCC's internal process for reviewing his comments and how the Commission intends to address his comments in the future in CC Docket No. 99-200.

5. On review, we find no reason to disturb WCB's decision. The FOIA requires that agencies "upon any request for records which (i) reasonably describes such records and (ii) is made in accordance with published rules stating the time, place, fees (if any), and procedures to be followed, shall make the records promptly available to any person."⁷ The FOIA does not require agencies to answer questions, as opposed to providing records.⁸ Neill's submissions consist almost entirely of questions addressed to the deliberative process in CC Docket No. 99-200 rather than requests for records. WCB appropriately denied Neill's FOIA request because he posed questions rather than requested records. We note that WCB also exchanged extensive correspondence with Neill outside of the FOIA process attempting to address his questions and concerns.

6. Accordingly, IT IS ORDERED that Prof Bill Neill's application for review is DENIED. Neill may seek judicial review of the denial of his FOIA request pursuant to 5 U.S.C. § 552(a)(4)(B).

7. The following officials are responsible for this action: Chairman Powell, Commissioners Abernathy, Copps, Martin, and Adelstein.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

⁶ Letter from Prof Bill Neill to Office of General Counsel, Federal Communications Commission (Sept. 10, 2003).

⁷ 5 U.S.C. § 552(a)(3)(A). See Zemansky v. EPA, 767 F.2d 569, 574 (9th Cir. 1985).

⁸ See DiViao v. Kelley, 571 F.2d 538, 542 (10th Cir. 1978); Hudgins v. IRS, 620 F.Supp. 19, 21 (D.C. D.C. 1985). See also NLRB v. Sears Roebuck & Co., 421 U.S. 132, 161-62 (1975) (agency not required to create explanatory material).